IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 8 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF WEALTH-TAX

Versus

HARIKVALLABHDAS KALIDAS CH. TRUST

Appearance:

MR B.B.NAYAK FOR MR MANISH R BHATT for Applicant.

MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 26/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the Revenue, the following questions have been referred to this Court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench "C" under the provisions of section 27(1) of the Wealth Tax Act,1957 (hereinafter referred to as 'the Act').

"1. Whether, the Appellate Tribunal has not erred in law and on facts of the case in holding that the provisons of section 21A of the Wealth-tax Act,1957 were not applicable to the assessee ?

2. Whether the Appellate Tribunal has not erred in law and on facts in holding that the provisions of section 13(I) (C) read with section 13(2) (h) of the Income-tax Act,1961 were not attracted in the case of the assessee ?

3. Whether, on the facts and in the circumstances of the case, the Appellate Tribunal has been right in law in confirming the order of the Commissioner of Wealth-tax (Appeals) holding the value of 5552 shares of Ambica Mills Ltd. to be exempt in the assessee's hands?"

We have heard learned Advocate Shri B.B.Nayak, appearing for the applicant. Though the respondent has been served with notice of this Court, nobody has appeared on behalf of the respondent trust.

Shri Nayak, learned Advocate, appearing for the applicant has submitted that all the three questions which have been referred to in the present Reference have already been replied to by this Court in Wealth Tax Reference No.21 of 1981 decided on 3/12/1993 and Wealth Tax Reference No.22 of 1981 decided on 18/1/1995. In view of the law laid down by this Court, in the Wealth Tax References referred to hereinabove, we reply the questions referred to in the present Reference in the affirmative i.e. in favour of the assessee and against the Revenue.

The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)

m.m.bhatt